

## **SINN FÉIN SUBMISSION TO INDEPENDENT HUMAN RIGHTS ACT (1998) REVIEW**

1. Sinn Féin are deeply concerned by the British Government's review of the Human Rights Act (1998) and any discourse regarding a diminution of the Human Rights Act (1998).
2. In 1998, the Good Friday Agreement that brought an end to decades of conflict on our island and formed a power-sharing executive in the north of Ireland is underpinned by a commitment to the robust protection of the human rights of every citizen resident here. The European Convention on Human Rights (ECHR) is a key component of the Good Friday Agreement, as the agreement states in the Rights, Safeguards and Equality of Opportunity - paragraph 2, *'The British Government will complete incorporation into Northern Ireland law of the ECHR, with direct access to the courts, and remedies for breach of the Convention, including power for the courts to overrule Assembly legislation on grounds of inconsistency'*. This commitment is guaranteed by the Human Rights Act (1998), which transposes the ECHR into British domestic law with effect here in the north. Any diminution of the scope of application of the Human Rights Act (1998) undermines the Good Friday Agreement.
3. As a fulfilment of the Good Friday Agreement commitment, powers were devolved to the new power-sharing Executive under the Northern Ireland Act. This act facilitates the day to day running of government in the north and requires that all legislation passed must be in line with the Human Rights Act (1998). Moreover, the commitment to the Human Rights Act (1998) has also been incorporated into the Police (NI) Acts 2000 and 2003, and the Justice (NI) Acts 2002 and 2004. In fact, one of the key functions of the Policing Board, an important accountability mechanism, is to monitor compliance of the police with the Human Rights Act (1998). Therefore, human rights protections afforded to us by the Human Rights Act (1998) is a fundamental part of the peace process.
4. In the 23 years since the Good Friday Agreement, the Human Rights Act (1998) has only become more relevant. The 2020 New Decade, New Approach deal, established an Ad-Hoc Committee within the Assembly, to consider the creation of a Bill of Rights, which is faithful to the stated intention of the Good Friday Agreement. The intention within the agreement was that a Bill of Rights, with rights supplementary and additional to the ECHR, would be created and that the Bill of Rights and the Human Rights Act (1998) would be the safeguards to the functioning of the Assembly. The passing of Bill of Rights legislation is yet another unfulfilled commitment by the British Government.
5. Sinn Féin are further concerned by the theme within this review that will consider 'the relationship between the European Court of Human Rights (ECtHR) and the domestic

courts.’ The ECtHR has been an important mechanism to which citizens can turn when they have suffered grave human rights violations. In the context of the conflict in Ireland, this has resulted in landmark judgements such as the McKerr group of cases, which saw the court rule that the victims had their Article 2, right to life, breached.

6. Domestic courts have ruled in tandem with the ECtHR, most notably in the case of the murdered human rights lawyer Pat Finucane. In 2003 the ECtHR ruled that the family had not yet received an Article 2 compliant investigation into his death, and this judgement was reiterated in 2019 by the British Supreme Court. The importance of ECtHR jurisprudence in upholding the rights of individuals in the north, and holding the British Government to account, is recognised by the judiciary.
7. The above cases also show that an external court, free from British State involvement, is necessary for survivors of the conflict to access truth, justice, and reparation. If this right is removed, there are many families who may never get justice. It is worth noting, however, that despite the ruling of the ECtHR regarding the murder of Pat Finucane the British Government has not yet acted on the judgement. Therefore, the claim that the ECtHR exercises too much power over the Government is incorrect.
8. The Human Rights Act (1998) has also been crucial to the advancement of rights protections in the north.
9. In the context of Brexit it is also important to note that in the Trade and Co-operation Agreement (TCA) with the European Union, the British Government committed to upholding ECHR rights. Therefore, any diminution of the Human Rights Act (1998) runs contrary to the TCA. However, the actions of this British Government in relation to the Internal Market Bill demonstrated their willingness to break international law and in so doing sacrifice the hard-won rights of the Good Friday Agreement.
10. The above examples are intended to highlight the important protection afforded by the Human Rights Act (1998) to people in the north of Ireland by enabling the full incorporation of the ECHR, within the Good Friday Agreement. This Human Rights Act (1998) is necessary to safeguard the peace process; allows victims of the conflict to access their right to truth; and helps to advance our human rights in line with the rest of the world. It is also worth noting that as an island, it is vital that there are reciprocal rights protections on each side of the border. Any diminution of the Human Rights Act (1998) poses a significant risk to the peace and stability of the north.